IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
CORPUS CHRISTI DIVISION

United States District Co
Southern District of Tex
FILED
AUG - 1 2002
Michael N. Milby, Clerk

PAMELA J. PASCHAL, individually and as Independent Executrix of the Estate of Jeffrey S. Paschal, Deceased, and as next friend of KATHLEEN PASCHAL, a minor, JENNIFER PASCHAL; MARY ANN FASSNACHT, Individually and as Personal Representative of the Estate of Edward R. Fassnacht, Deceased, and as next friend of ANNA MARIE FASSNACHT, a minor and EDWARD FASSNACHT, a minor; ROBERT EDWARD FASSNACHT; DEBORAH LOUISE MALINSKY, Individually and as heir-at-law of David Rutherford, Deceased; AMY BRIDGES JACOBS, Individually and as Independent Executrix of the Estate of Shawn O. Jacobs; STEVEN JACOBS; SHIRLEY CHOATE; SEAN PALYO, and JEREMY YAKLIN

Plaintiffs,

vs.

KAYDON CORPORATION; THE ARMOLOY CORPORATION; ARMOLOY OF ILLINOIS, INC.; ARMOLOY OF CONNECTICUT, INC.; INVESTMENT HOLDINGS, INC.; and SIKORSKY AIRCRAFT CORPORATION

Defendants.

§ §

CIVIL ACTION NO. C-02-312

JURY DEMANDED

SIKORSKY AIRCRAFT CORPORATION'S ORIGINAL ANSWER

TO THE HONORABLE JUDGE JANIS GRAHAM JACK:

COMES NOW Sikorsky Aircraft Corporation, Defendant herein (hereinafter "Sikorsky"), and files this Original Answer to Plaintiffs' (State Court) Original Petition, and in support thereof would respectfully show as follows:

4.

Without waiving other defenses asserted and to be asserted herein, Sikorsky answers the specifically numbered paragraphs in Plaintiffs' Original Petition as follows:

DISCOVERY LEVEL

1. This paragraph concerning State Court discovery does not require an answer.

JURISDICTION AND VENUE

2. This paragraph concerns jurisdiction and venue in State Court and is denied.

PARTIES

Plaintiffs

3. Sikorsky is without knowledge or information sufficient to form a belief as to the averments in paragraph 3 of Plaintiffs' Original Petition and therefore denies same.

4. Sikorsky is without knowledge or information sufficient to form a belief as to the averments in paragraph 4 of Plaintiffs' Original Petition and therefore denies same.

5. Sikorsky is without knowledge or information sufficient to form a belief as to the averments in paragraph 5 of Plaintiffs' Original Petition and therefore denies same.

6. Sikorsky is without knowledge or information sufficient to form a belief as to the averments in paragraph 6 of Plaintiffs' Original Petition and therefore denies same.

7. Sikorsky is without knowledge or information sufficient to form a belief as to the averments in paragraph 7 of Plaintiffs' Original Petition and therefore denies same.

8. Sikorsky is without knowledge or information sufficient to form a belief as to the averments in paragraph 8 of Plaintiffs' Original Petition and therefore denies same.

9. Sikorsky is without knowledge or information sufficient to form a belief as to the averments in paragraph 9 of Plaintiffs' Original Petition and therefore denies same.

10. Sikorsky is without knowledge or information sufficient to form a belief as to the averments in paragraph 10 of Plaintiffs' Original Petition and therefore denies same.

11. Sikorsky is without knowledge or information sufficient to form a belief as to the averments in paragraph 11 of Plaintiffs' Original Petition and therefore denies same.

12. Sikorsky is without knowledge or information sufficient to form a belief as to the averments in paragraph 12 of Plaintiffs' Original Petition and therefore denies same.

Defendants

13. Sikorsky is without knowledge or information sufficient to form a belief as to the averments in paragraph 13 of Plaintiffs' Original Petition and therefore denies same.

14. Sikorsky is without knowledge or information sufficient to form a belief as to the averments in paragraph 14 of Plaintiffs' Original Petition and therefore denies same.

15. Sikorsky is without knowledge or information sufficient to form a belief as to the averments in paragraph 15 of Plaintiffs' Original Petition and therefore denies same.

16. Sikorsky is without knowledge or information sufficient to form a belief as to the averments in paragraph 16 of Plaintiffs' Original Petition and therefore denies same.

17. Sikorsky is without knowledge or information sufficient to form a belief as to the averments in paragraph 17 of Plaintiffs' Original Petition and therefore denies same.

18. Sikorsky admits it is a corporation organized and existing under the laws of the State of Delaware with its home office and principal place of business in Stratford, Connecticut. Sikorsky denies that it is engaged in doing business in the State of Texas. Sikorsky has agreed to accept service of process so that the factual allegations regarding service of process are not relevant.

FACTS RELEVANT TO ALL COUNTS

19. Sikorsky is without knowledge or information sufficient to form a belief as to the averments in the nineteenth paragraph of Plaintiffs' Original Petition and therefore denies same.

20. Sikorsky is without knowledge or information sufficient to form a belief as to the averments in the twentieth paragraph of Plaintiffs' Original Petition and therefore denies same.

21. Sikorsky admits that it originally manufactured the helicopter in question and delivered the same to the United States Navy. Sikorsky denies that it manufactured the swashplate duplex bearing or introduced the swashplate duplex bearing into the stream of commerce.

22. Sikorsky admits that Kaydon Corporation manufactured bearings for the MH-53E swashplate, that the bearing in question was designated as an 043 bearing. With regard to the other allegations in the twenty-second paragraph of Plaintiffs' Original Petition , Sikorsky is without knowledge or information sufficient to form a belief as to the averments and therefore denies same.

23. Sikorsky admits to the allegations in the twenty-third paragraph of Plaintiffs' Original Petition.

24. Sikorsky denies that it manufactured or installed the bearing in question, and denies that it created and/or caused any manufacturing defects, deficiencies or inadequacies in the MH-53E Sea Dragon helicopter. Sikorsky understands that the bearing was manufactured by Kaydon Corporation and delivered from Kaydon Corporation to the Untied States Navy, and that the United States Navy installed the bearing.

PRODUCT LIABILITY

25. Sikorsky adopts and incorporates herein for all purposes its responses to paragraphs 1 through 24, inclusive.

26. The MH-53E Sea Dragon helicopter was originally manufactured by Sikorsky pursuant to reasonably precise design specifications owned by the United States Government. The swashplate bearing in question was manufactured by Kaydon Corporation, the Armoloy Corporation, Armoloy of Illinois, Inc., Armoloy of Connecticut, Inc., and/or Investment Holdings Inc. Sikorsky denies that it created and/or caused any manufacturing defects, deficiencies or inadequacies in the MH-53E Sea Dragon helicopter. Sikorsky denies that it assembled the swashplate bearing into the helicopter and denies that it is strictly liable under §402(a) of the restatement (2^{nd}) of Torts. Sikorsky

is without sufficient knowledge or information to form a belief as to the truth of the other allegations contained in paragraph twenty-six of Plaintiffs' Original Petition and therefore denies same.

NEGLIGENCE

27. Sikorsky adopts and incorporates herein for all purposes its responses to paragraphs 1 through 24, inclusive.

28. Sikorsky denies that it was negligent and further denies that it directly and proximately caused of the deaths and injuries in question. With regard to the allegations contained in paragraph twenty-eight of Plaintiffs' Original Petition relating to the conduct of other Defendants, Sikorsky says that it is without sufficient knowledge or information to form a belief as to the truth of those allegations and therefore denies same.

WRONGFUL DEATH AND SURVIVAL CLAIMS

29. Sikorsky adopts and incorporates herein for all purposes paragraphs 1 through 28, inclusive.

30. Sikorsky is without knowledge or information sufficient to form a belief as to the averments in the thirtieth paragraph of Plaintiffs' Original Petition and therefore denies same.

31. Sikorsky is without knowledge or information sufficient to form a belief as to the averments in the thirty-first paragraph of Plaintiffs' Original Petition and therefore denies same.

WRONGFUL DEATH DAMAGES

32. Sikorsky adopts and incorporates herein for all purposes paragraphs 1 through 24, inclusive.

33. Sikorsky is without knowledge or information sufficient to form a belief as to the averments in the thirty-third paragraph of Plaintiffs' Original Petition and therefore denies same.

A. JEFFREY S. PASCHAL

34. Sikorsky is without knowledge or information sufficient to form a belief as to the averments in the thirty-fourth paragraph of Plaintiffs' Original Petition and therefore denies same.

A(1). Pamela Paschal

35. Sikorsky is without knowledge or information sufficient to form a belief as to the averments in the thirty-fifth paragraph of Plaintiffs' Original Petition and therefore denies same.

A(2). Kathleen Paschal

36. Sikorsky is without knowledge or information sufficient to form a belief as to the averments in the thirty-sixth paragraph of Plaintiffs' Original Petition and therefore denies same.

A(3). Jennifer Paschal

37. Sikorsky is without knowledge or information sufficient to form a belief as to the averments in the thirty-seventh paragraph of Plaintiffs' Original Petition and therefore denies same.

B. EDWARD R. FASSNACHT

38. Sikorsky is without knowledge or information sufficient to form a belief as to the averments in the thirty-eighth paragraph of Plaintiffs' Original Petition and therefore denies same.

B(1). Mary Ann Fassnacht

39. Sikorsky is without knowledge or information sufficient to form a belief as to the averments in the thirty-ninth paragraph of Plaintiffs' Original Petition and therefore denies same.

B(2). Anna Marie Fassnacht

40. Sikorsky is without knowledge or information sufficient to form a belief as to the averments in the fortieth paragraph of Plaintiffs' Original Petition and therefore denies same.

B(3). Edward Joseph Fassnacht

41. Sikorsky is without knowledge or information sufficient to form a belief as to the averments in the forty-first paragraph of Plaintiffs' Original Petition and therefore denies same.

B(4). Robert Edward Fassnacht

42. Sikorsky is without knowledge or information sufficient to form a belief as to the averments in the forty-second paragraph of Plaintiffs' Original Petition and therefore denies same.

C. DAVID RUTHERFORD

43. Sikorsky is without knowledge or information sufficient to form a belief as to the averments in the forty-third paragraph of Plaintiffs' Original Petition and therefore denies same.

C(1). Deborah Louise Malinsky

44. Sikorsky is without knowledge or information sufficient to form a belief as to the averments in the forty-fourth paragraph of Plaintiffs' Original Petition and therefore denies same.

D. SHAWN O. JACOBS

45. Sikorsky is without knowledge or information sufficient to form a belief as to the averments in the forty-fifth paragraph of Plaintiffs' Original Petition and therefore denies same.

D(1). Amy Bridges Jacobs

46. Sikorsky is without knowledge or information sufficient to form a belief as to the averments in the forty-sixth paragraph of Plaintiffs' Original Petition and therefore denies same.

D(2). Steve Jacobs

47. Sikorsky is without knowledge or information sufficient to form a belief as to the averments in the forty-seventh paragraph of Plaintiffs' Original Petition and therefore denies same.

D(3). Shirley Choate

48. Sikorsky is without knowledge or information sufficient to form a belief as to the averments in the forty-eighth paragraph of Plaintiffs' Original Petition and therefore denies same.

PERSONAL INJURY DAMAGES

A. Sean Palyo

49. Sikorsky adopts and incorporates herein for all purposes paragraphs 1 through 24, inclusive.

50. Sikorsky is without knowledge or information sufficient to form a belief as to the averments in the fiftieth paragraph of Plaintiffs' Original Petition and therefore denies same.

51. Sikorsky is without knowledge or information sufficient to form a belief as to the averments in the fifty-first paragraph of Plaintiffs' Original Petition and therefore denies same.

52. Sikorsky is without knowledge or information sufficient to form a belief as to the averments in the fifty-second paragraph of Plaintiffs' Original Petition and therefore denies same.

B. Jeremy Yaklin

53. Sikorsky adopts and incorporates herein for all purposes paragraphs 1 through 24, inclusive.

54. Sikorsky is without knowledge or information sufficient to form a belief as to the averments in the fifty-fourth paragraph of Plaintiffs' Original Petition and therefore denies same.

55. Sikorsky is without knowledge or information sufficient to form a belief as to the averments in the fifty-fifth paragraph of Plaintiffs' Original Petition and therefore denies same.

DAMAGES TO THE ESTATES

A. Estate of Jeffrey S. Paschal

56. Sikorsky adopts and incorporates herein for all purposes paragraphs 1 through 24, inclusive.

57. Sikorsky is without knowledge or information sufficient to form a belief as to the averments in the fifty-seventh paragraph of Plaintiffs' Original Petition and therefore denies same.

B. Estate of Edward R. Fassnacht

58. Sikorsky adopts and incorporates herein for all purposes paragraphs 1 through 24, inclusive.

59. Sikorsky is without knowledge or information sufficient to form a belief as to the averments in the fifty-ninth paragraph of Plaintiffs' Original Petition and therefore denies same.

C. **Estate of David Rutherford**

60. Sikorsky adopts and incorporates herein for all purposes paragraphs 1 through 24, inclusive. With regard to the remaining allegations in paragraph sixty of Plaintiffs' Original Petition, Sikorsky is without knowledge or information sufficient to form a belief as to the averments.

61. Sikorsky is without knowledge or information sufficient to form a belief as to the averments in the sixty-first paragraph of Plaintiffs' Original Petition and therefore denies same.

D. **Estate of Shawn O. Jacobs**

62. Sikorsky adopts and incorporates herein for all purposes paragraphs 1 through 24, inclusive.

63. Sikorsky is without knowledge or information sufficient to form a belief as to the averments in the sixty-third paragraph of Plaintiffs' Original Petition and therefore denies same.

64. Sikorsky is without knowledge or information sufficient to form a belief as to the averments in the sixty-fourth paragraph of Plaintiffs' Original Petition and therefore denies same.

JURY DEMAND

65. Sikorsky demands a trial by jury.

FIRST AFFIRMATIVE DEFENSE

66. Sikorsky is a supplier of military equipment and is not liable to the Plaintiffs because (1) The United States is immune from liability; (2) Sikorsky, as a government contractor, was required by the United States government to manufacture the helicopter in question to reasonably precise specifications, which were established and approved by the United States government; (3)

The helicopter conformed to those specifications; and (4) Sikorsky warned the Untied States about patent errors, if any, in the government specifications and about dangers, if any, involved in the use of the helicopter that were known to Sikorsky but not the United States.

SECOND AFFIRMATIVE DEFENSE

67. Sikorsky is immune to suit or liability pursuant to the Defense Production Act of 1950, 50 U.S.C.§ 2061 et. seq.

THIRD AFFIRMATIVE DEFENSE

68. The accident made the basis of this suit was caused in whole or in part by the acts, omissions, or products of others over whom this defendant has no control or right of control.

FOURTH AFFIRMATIVE DEFENSE

69. Sikorsky reserves the right to submit issues to obtain an allocation of fault as to any settling person or responsible Third-Party, and/or obtain a credit with regard to any settlement, if appropriate.

WHEREFORE, PREMISES CONSIDERED, Sikorsky prays that Plaintiffs take nothing by reason of the claims and allegations contained Plaintiffs' Original Petition , and that Sikorsky be granted such other and further relief as the Court may deem appropriate.

Respectfully submitted,

BEIRNE, MAYNARD & PARSONS, L.L.P.

William L. Maynard * by permission JRW

William L. Maynard
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ATTORNEY IN CHARGE FOR DEFENDANT SIKORSKY AIRCRAFT CORPORATION

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CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing has been served on all known counsel of record via certified mail, return receipt requested, fax transmittal and/or hand delivery on this 31st day of July, 2002.

William L. Maynard